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In re Application of :
BUCHER, Romeo, et al. :
U.S. Application No.: 09/913,984 :
PCT No.: PCT/CH00/00086 :
International Filing Date: 02 February 2000 :
Priority Date: 08 March 1999 :
Attorney's Docket No.: 2821-211WOUS :
For: METHOD AND DEVICE FOR WELDING :
SHEETS :

DECISION

This decision is issued in response to the "Request For Correction Of Filing Receipt" filed 19 March 2002 which has been treated as a petition under 37 CFR 1.181 seeking a corrected Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt indicating 22 October 2001 as the filing date for the present application.

BACKGROUND

On 02 February 2000, applicants filed international application PCT/CH00/00086 which claimed a priority date of 08 March 1999 and which designated the United States. On 14 September 2000 May 2000, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 01 September 2000, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 08 September 2001.

On 17 August 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English. The submission did not include an executed declaration in compliance with 37 CFR 1.497.

On 12 October 2001, the DO/EO/US mailed a Notification Of Missing Requirements informing applicants that a declaration in compliance with 37 CFR 1.497 and the surcharge for filing this declaration later than thirty months after the priority date was required. The Notification provided applicants with an extendable two month deadline to respond.

On 27 December 2001, the USPTO received applicants' response to the Notification Of Missing Requirements, including an executed declaration and the required surcharge. The response included a certification that it was deposited as first class mail on 22 October 2001. Based on the certification of mailing, the response was considered a timely response to the Notification Of Missing Requirements, with no extension fees required.

On 01 February 2002, the DO/EO/US mailed a Notification Of Acceptance Of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) identifying 27 December 2001 as the date of receipt of the 35 U.S.C. 371 requirements. Subsequently, a filing receipt was mailed to applicants. This filing receipt identified the "filing date" as 27 December 2001.

On 26 March 2002, applicant filed the "Request For Correction Of Filing Receipt" considered herein, which requests that the filing date of 27 December 2001 be changed to 22 October 2001.

DISCUSSION

The filing date set forth on the filing date corresponds with the date on which the 35 U.S.C. 371 requirements are completed, such date also being indicated on the Notification Of Acceptance (see MPEP section 1895.01). Here, the date on the Notification Of Acceptance and the filing receipt is 27 December 2001, the date on which the declaration completing the 35 U.S.C. 371 requirements was received at the USPTO. Applicants here seek to have this date changed to 22 October 2001, the date on which the declaration was deposited as first class mail with the USPTO. However, as clearly set forth in 37 CFR 1.8(a), a certification of mailing by first class mail is only used for determining whether a piece of correspondence has been timely submitted (as was done here); "[t]he actual date of receipt will be used for all other purposes." Had applicants desired the submission to be treated as having been filed on the date it was deposited with the USPS, then the "Express Mail" procedure set forth in 37 CFR 1.10 should have been followed.

Based on the above, the declaration by which applicants completed the 35 U.S.C. 371 requirements was properly accorded a filing date of 27 December 2001, the date it was received in the USPTO. Accordingly, the filing date on the filing receipt is correct.

Applicants have also noted that the city of residence on the filing receipt is incorrect for inventor Romeo BUCHER. A corrected filing receipt will be issued that indicates the proper residence city for this inventor.

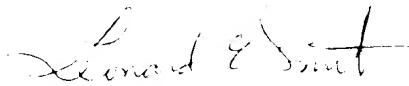
CONCLUSION

For the reasons above, applicants' request to change the filing date on the filing receipt is **DISMISSED** without prejudice.

Any reconsideration on the merits of these petition(s) must be filed within **TWO (2) MONTHS** from the mail date of this decision to file a response. No petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for issuance of a corrected filing receipt that properly identifies the city of residence for inventor Romeo BUCHER as Uhwiesen, Switzerland, and it will then be forwarded to Group Art unit 3742 for examination.



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